

CCRB INVESTIGATIVE RECOMMENDATION

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|---|-------------------------------------|-------------------------------|--|---|--|
| Investigator: Stanislav Sazonov | Team: Team # 4 | CCRB Case #: 201407568 | <input checked="" type="checkbox"/> Force | <input checked="" type="checkbox"/> Discourt. | <input type="checkbox"/> U.S. |
| | | | <input checked="" type="checkbox"/> Abuse | <input type="checkbox"/> O.L. | <input checked="" type="checkbox"/> Injury |
| Incident Date(s) Thursday, 07/24/2014 11:30 PM | Location of Incident: § 87(2)(b) | Precinct: 49 | 18 Mo. SOL 1/24/2016 | EO SOL 1/24/2016 | |
| Date/Time CV Reported Fri, 07/25/2014 11:25 AM | CV Reported At: CCRB | How CV Reported: In-person | Date/Time Received at CCRB Fri, 07/25/2014 11:25 AM | | |

| Complainant/Victim | Type | Home Address |
|--------------------|------------|--------------|
| § 87(2)(b) | § 87(2)(b) | § 87(2)(b) |

| Witness(es) | Home Address |
|-------------|--------------|
| § 87(2)(b) | § 87(2)(b) |
| § 87(2)(b) | § 87(2)(b) |

| Subject Officer(s) | Shield | TaxID | Command |
|--------------------------|--------|--------|---------|
| 1. POM Saverio Zanchelli | 28467 | 916950 | 049 PCT |
| 2. POM Brian Fragliossi | 30892 | 925308 | 049 PCT |

| Officer(s) | Allegation | Investigator Recommendation |
|-------------------------|--|-----------------------------|
| A.POM Saverio Zanchelli | Abuse: PO Saverio Zanchelli threatened to arrest § 87(2)(b) | § 87(2)(b) |
| B.POM Brian Fragliossi | Abuse: PO Brian Fragliossi threatened to arrest § 87(2)(b) | § 87(2)(b) |
| C.POM Saverio Zanchelli | Abuse: PO Saverio Zanchelli entered § 87(2)(b) in the Bronx. | § 87(2)(b) |
| D.POM Brian Fragliossi | Abuse: PO Brian Fragliossi entered § 87(2)(b) in the Bronx. | § 87(2)(b) |
| E.POM Saverio Zanchelli | Discourtesy: PO Saverio Zanchelli acted rudely toward § 87(2)(b) | § 87(2)(b) |
| F.POM Saverio Zanchelli | Abuse: PO Saverio Zanchelli damaged § 87(2)(b)'s property. | § 87(2)(b) |
| G.POM Saverio Zanchelli | Force: PO Saverio Zanchelli used physical force against § 87(2)(b) | § 87(2)(b) |
| H.POM Brian Fragliossi | Force: PO Brian Fragliossi used physical force against § 87(2)(b) | § 87(2)(b) |

Case Summary

On July 24, 2014, at approximately 11:30 p.m., § 87(2)(b) returned home, located at § 87(2)(b), in the Bronx, from a candy shop. The building, owned by § 87(2)(b) § 87(2)(b)'s family, is divided into residential and commercial portions. When he came home, § 87(2)(b) encountered two uniformed police officers, identified via the CCRB as PO Saverio Zanchelli and PO Brian Fragliossi from the 49th Precinct. § 87(2)(b) who rents commercial space at that address from § 87(2)(b)'s father, was also present along with her friend, § 87(2)(b). Earlier that night, § 87(2)(b) had a dispute with § 87(2)(b) and § 87(2)(b) prompting § 87(2)(b) to call the police.

PO Zanchelli and PO Fragliossi instructed § 87(2)(b) to turn on the lights in § 87(2)(b)'s store or he would go to jail (**Allegation A and B**). § 87(2)(b) opened the front door to enter the vestibule of the building and both officers followed him inside (**Allegations C and D**). § 87(2)(b) went to the basement apartment, which is where he resided, turned on the lights and approximately two to three minutes later returned with a body camera clipped to his shirt. PO Zanchelli allegedly grabbed the camera and tore it off, along with § 87(2)(b)'s shirt (**Allegations E and F**). PO Zanchelli and PO Fragliossi turned § 87(2)(b) around and placed him against the wall, causing § 87(2)(b) to sustain a laceration under his right eye and on the right side of his forehead. § 87(2)(b) was then handcuffed and punched on the right side of his ribs by an officer he did not see (**Allegations G and H**). § 87(2)(b) was then slammed on the ground, stunning him. Later, § 87(2)(b) said he did not remember if he was placed on the ground. § 87(2)(b) was transported to the 49th Precinct stationhouse where he was released with a summons for disorderly conduct: failure to comply (encl. 5A-6A).

Mediation, Civil and Criminal Histories

- Mediation was not offered § 87(2)(b), § 87(2)(g) [REDACTED]
- On February 17, 2015, a FOIL request was sent to the NYC Office of the Comptroller seeking any notice of claim filed in regards to this incident (encl. 17A). The results will be added to the case file upon receipt.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] [REDACTED]
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] [REDACTED]
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] [REDACTED]

Civilian and Officer CCRB Histories

- § 87(2)(b) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

- PO Zanchelli has been a member of the service for nineteen years and there are no substantiated CCRB allegations against him (encl. 2A).
- PO Fragliossi has been a member of the service for fourteen years and there are no substantiated CCRB allegations against him (encl. 2B).

Officer Identification

§ 87(2)(b) described one of the officers as a Hispanic male in his late 30s to early 40s, approximately 6'3" tall, about 260 pounds and with short dark hair. The second officer was described as a heavy-set Hispanic male in his late 30s to early 40s, approximately 5'7" tall, about 210 pounds, with short dark hair and a receding hairline. In his CCRB Interview Report, PO Fragliossi identified himself as a § 87(2)(b)-old Hispanic male, 6'1" tall, 270 pounds, with black hair and brown eyes. In his CCRB Interview Report, PO Zanchelli identified himself as a § 87(2)(b)-year-old white male, 5'5" tall, 240 pounds, with brown hair and brown eyes. PO Zanchelli generally matched the description of the officer who grabbed § 87(2)(b) by his shirt when he exited his apartment § 87(2)(g).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Findings and Recommendation

Allegation A – Abuse of Authority: PO Saverio Zanchelli threatened to arrest § 87(2)(b)

Allegation B – Abuse of Authority: PO Brian Fragliossi threatened to arrest § 87(2)(b)

It is undisputed that PO Zanchelli and PO Fragliossi threatened to arrest § 87(2)(b) if he did not turn on the lights in § 87(2)(b)'s beauty salon.

§ 87(2)(b) acknowledged having a verbal dispute with § 87(2)(b) and § 87(2)(b) before the officers arrived because they made excessive noise and smoked marijuana. He did not acknowledge turning the lights off but did imply they were off at the time the officers arrived and stated that he believed the circuit breaker blew out due to an electrical issue. According to § 87(2)(b) (encl. 5B), when he first encountered the officers, they told him to turn on the lights or he would go to jail. He countered that they could not arrest him because it was a civil matter.

§ 87(2)(b) reported in her 911 call that § 87(2)(b) threatened her and the call was registered as a report of harassment (encl. 11B). In her in-person statement (encl. 8b), § 87(2)(b) elaborated that § 87(2)(b) threatened to turn off the electricity because he did not want her to rent space from his family and ultimately shut off the power to the beauty salon. § 87(2)(b) corroborated § 87(2)(b)'s statement that § 87(2)(b) had harassed them and turned off the electricity (encl. 7B-C).

Both PO Zanchelli and PO Fragliossi stated that § 87(2)(b) complained to them about § 87(2)(b) turning off the lights (encl. 9G-10F). They acknowledged that after § 87(2)(b) refused to turn the power on, he was informed that he would be arrested if he continued to refuse. PO Fragliossi added that § 87(2)(b) told them she had paid her rent and she called the landlord § 87(2)(b)'s father), with whom PO Fragliossi spoke to confirm that § 87(2)(b) had a right to be in the shop. § 87(2)(b) corroborated this, stating that he observed the officers talking to his father on the phone.

According to New York City Administrative Code § 26-521, it is unlawful to attempt to induce the eviction of a legal occupant of a dwelling by interrupting or discontinuing services (encl. 1A).

§ 87(2)(g)

Allegation C – Abuse of Authority: PO Saverio Zanchelli entered § 87(2)(b) in the Bronx.

Allegation D – Abuse of Authority: PO Brian Fragliossi entered § 87(2)(b) in the Bronx.

It is undisputed that PO Zanchelli and PO Fragliossi followed § 87(2)(b) into the front door of § 87(2)(b).

According to § 87(2)(b) the officers informed him that he had to turn on the lights and they were going to go into his house to make sure he complied. He replied that he had a service dog in his apartment and did not want the officers inside, then unlocked the front door, at which point the officers “forced” their way inside by pushing the door open and entering the hallway. § 87(2)(b) explained that this hallway leads to two apartments on the first floor. § 87(2)(b) entered his own apartment, which he stated the officers “tried to enter”, but he closed the door quickly and re-set the circuit breaker in order to turn on the lights.

§ 87(2)(b) and § 87(2)(b) corroborated that § 87(2)(b) told the officers they could not come in before he opened the front door leading to the residential portion of the building and the officers followed him into hallway. The officers asked § 87(2)(b) to hold the front door open so it would not shut behind them, and he complied. § 87(2)(b) could see into the hallway while § 87(2)(b) remained in the salon next door, and stated that the officers did not try to enter § 87(2)(b)'s apartment but remained in the hallway until he came out.

PO Fragliossi stated that § 87(2)(b) opened the front door, told the officers he did not want them to enter, and attempted to close the door, but PO Fragliossi placed his foot in the door and told § 87(2)(b) he was coming in, after which he and PO Zanchelli entered. PO Fragliossi explained that he wanted the door to be open for safety reasons because he did not know what § 87(2)(b) had behind the door. He viewed a Google Maps image (encl. 3A) and confirmed that the white door pictured is the one he and PO Zanchelli entered. The officers then waited while § 87(2)(b) went into his basement apartment.

According to PO Zanchelli, the officers followed § 87(2)(b) into the vestibule area, then waited for § 87(2)(b) to turn on the power. § 87(2)(b) went into the basement to do so, and the officers did not follow him because he had a dog there. PO Zanchelli stated § 87(2)(b) did not indicate that he did not want the officers inside, and denied that either officer placed his foot in the door to prevent § 87(2)(b) from closing it.

Fieldwork conducted on March 10, 2015 by the CCRB Field Team confirmed that the front door to § 87(2)(b) is locked from the outside, barring entry to anyone without a key. The door opens into a vestibule which leads to a second door. (encl. 16E, 3B)

§ 87(2)(g), § 87(2)(b)

Without a search warrant, police officers require consent from a valid party or exigent circumstances before entering a private dwelling. Payton v. New York, 445 U.S. 573 (1980) (encl. i-xxiv). While lobbies, hallways and stairwells where strangers are allowed unlimited

access have been considered public spaces, a hallway located in a building, access to which is limited to residents of the building and their guests, with a locked front door insuring this security, has been held to be within the defendant's "dwelling." People v. Lott, 102 A.D.2d 506 (Sup. Ct., 4th Dept., 1984) (encl. xxv-xxix).

§ 87(2)(g)

Allegation E – Discourtesy: PO Saverio Zanchelli acted rudely toward § 87(2)(b)

Allegation F – Abuse of Authority: PO Saverio Zanchelli damaged § 87(2)(b) **s**
property.

§ 87(2)(b) stated that he wore a shirt and a body camera when he exited his basement apartment. § 87(2)(b) further stated that PO Zanchelli grabbed the body camera that was clipped to the shirt upon seeing it, and ripped it off together with his shirt. § 87(2)(b) did not know if the camera was damaged but his shirt was.

PO Zanchelli denied that § 87(2)(b) wore a shirt or a camera during the incident, and he denied that he had ripped a body camera off of § 87(2)(b). PO Fragliossi corroborated PO Zanchelli's statement.

§ 87(2)(b) stated that § 87(2)(b) was shirtless when he exited his apartment and he did not see anything clipped on § 87(2)(b). § 87(2)(b) stated that she did not see § 87(2)(b) get arrested because she stood away from the entrance door and could not see what was happening at that point. She did not remember whether § 87(2)(b) had a shirt on at the time he was placed inside the police vehicle.

§ 87(2)(g)

Allegation G – Force: PO Saverio Zanchelli used physical force against § 87(2)(b)

Allegation H – Force: PO Brian Fragliossi used physical force against § 87(2)(b)

§ 87(2)(b) stated that both officers turned him around in the process of arresting him and pushed him against the wall, causing him to sustain a laceration under his right eye and on the right side of his forehead as a result of the impact. Once on handcuffs, one of the officers whom § 87(2)(b) could not see because his head was pressed up against the wall, punched him on the right side of his ribs one to two times. § 87(2)(b) further stated that he was then slammed against the ground causing him to see stars.

PO Zanchelli stated that he and PO Fragliossi turned § 87(2)(b) around, placed him against the wall and handcuffed him. § 87(2)(b) tensed up and waved his arms. PO Zanchelli did not take any other action to handcuff § 87(2)(b) besides pulling his hands behind his back. PO Zanchelli explained that the reason why § 87(2)(b) was placed against the wall was because the hallway of the building was very narrow. PO Zanchelli denied punching § 87(2)(b) and he did not see PO Fragliossi do so. It took the officers approximately thirty seconds to handcuff § 87(2)(b). § 87(2)(b) was not placed on the ground.

[illegible]

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| Investigator: | Stanislav A. Sazonov | |
| | Signature | Print |
| Supervisor: | | |
| | Title/Signature | Print |
| Reviewer: | | |
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| Reviewer: | | |
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